

To the Members of the California State Assembly:

I am returning AB 2209 without my signature.

This is a well-intentioned measure designed to punish employers who engage in fraud, misrepresentation, or misconduct during a lockout. However this measure is flawed.

First, the bill fails to define “fraud, misrepresentation or misconduct,” leaving the statute open to abuse. Second, under this measure an employer could get penalties for acts completely unrelated to the trade dispute. Third, the penalty scheme allows for penalties that bear no relation to the type of misconduct by the employer.

I do not condone inappropriate actions by any party during a labor dispute. Employees have many remedies against employers engaging in fraud or misconduct during a labor dispute under state and federal law. California law imposes both criminal and civil penalties against employer misconduct for a variety of fraudulent acts including registering a fictitious employee, filing false reports, and preparing false documents.

Additionally, employees have a tort cause of action against their employer engaging in fraud during a labor dispute which allows them to recover the amount of salary and wages for the lost period of service. If the employer acted with oppression or malice then punitive damages may also be available.

For these reasons, I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger